

In The Matter Of:
Hickok Incorporated v.
Systech International, LLC, et al.

Majid Rashidi, Ph.D., P.E.

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1750 Midland Building
101 Prospect Avenue, West
Cleveland, Ohio 44115-1081
216.621.4984 800.822.0650
fax 216.621.0050

720 Akron Centre
50 South Main Street
Akron, Ohio 44308-1828
330.535.7300 800.562.7100
330.535.0050 fax

Schedule@MandH.com www.MandH.com

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1 than just more than two, namely three or more,
2 then blah blah ... I looked at the source code
3 that had a statement in there that, that "if"
4 statement was there.

5 Q. Okay. Who showed you that source code,
6 Mr. Rashidi?

7 A. I believe it was a gentleman George in Hickok.

8 Q. So the source code for SysTech's system was in
9 Hickok's hands?

10 A. That is I believe my recollection.

11 Q. There's also a reference to claim charts prepared
12 by Peter Hochberg.

13 Did you look at his entire report or just the
14 claim charts in his report?

15 A. I believe this one I looked at it, I believe.
16 This was a tabulated format, if I --

17 Q. Did you look at his entire report or just --

18 A. Just the claim chart.

19 Q. Just the claim charts?

20 A. Yes.

21 Q. 11 states: "Observation of performance and
22 function based on demonstration of the accused
23 SysTech devices and the devices of Hickok"?

24 A. Uh-huh.

25 Q. So you actually had the physical SysTech testers

1 before you?

2 A. Actually it was on a table, yes, both of them
3 side by side.

4 Q. "Both of them" being? What do you mean by that?

5 A. One of them was the SysTech, one of them was the
6 accused device -- I mean the device of the
7 Hickok.

8 Q. Was that for both the gas cap tester and the tank
9 tester?

10 A. I believe one was for the gas tank and one was
11 for the tank tester.

12 Q. Do you know that for a fact? Was it hooked up to
13 a -- do you remember just testing a cap?

14 A. That was again a long time ago.

15 I believe that was basically simulating a gas
16 cap.

17 Q. What do you mean by that?

18 A. Basically they had the device and they were
19 trying to simulate a leak and that's how they
20 tested and the results are given on Page 6 of my
21 report and on Page 5.

22 Q. Was there a physical gas cap?

23 A. I don't remember. I mean I don't remember that
24 it was a gas cap or it was a simulated gas cap.
25 I don't remember.

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1 Q. What's a simulated gas cap?

2 A. If you have basically a cylinder which you have
3 another leak on top of the reference leak that
4 you have, you can simulate that. I don't
5 recollect that. It was several months ago,
6 so ...

7 Q. So it's just, you know, some orifice that and
8 some mechanism that's hooked up to the tester
9 acting as a gas cap with that particular leak?

10 A. Again, I don't recollect really it was actually
11 gas cap or not. I don't recollect that.

12 Q. What about the tank tester? Was it hooked up to
13 an actual tank?

14 A. No. I have not seen it hooked up to a gas tank
15 test.

16 Q. But you saw both the Hickok and the SysTech tank
17 tester operating alongside?

18 A. As I said, I had two devices in front of me and
19 they ran both devices and the results are given
20 in these figures in the report.

21 Q. Do you recall distinguishing between the tank
22 tester and the gas cap tester while you were
23 looking at those?

24 A. I don't recall that.

25 Q. Did you know what you were looking at?

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1 Q. The curves are just a representation of the
2 physical characteristics of the gas cap, correct?
3 How they leaked over time?

4 A. What this figures show is how the Hickok device
5 and SysTech device could be used to basically
6 create a pass/fail test for a gas cap.

7 Q. How does it show how the determination is made as
8 to whether something passes or fails?

9 A. Basically that's what their device says, it is
10 the program in there basically creates the
11 pass/fail signal and --

12 Q. So this does not show how that program works in
13 any way, does it?

14 A. That is inside the device. Of course it doesn't.

15 Q. These graphs do not show how the program works,
16 correct?

17 A. I am -- on how the program works, I'm relying on
18 some other things that I have studied.

19 Q. That's not my question.

20 These graphs do not show how either the
21 Hickok or the SysTech tester's program works; is
22 that correct?

23 A. That's part of the code. That's correct.

24 Q. What equipment generated, what instruments
25 generated these curves?

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1 A. The devices. The two devices. One was a Hickok
2 system and one was SysTech machine.

3 Q. Do those devices have a graph drawing capability?

4 A. These are all on the oscilloscope.

5 Q. That's what I'm asking, did you use an
6 oscilloscope --

7 A. Yes.

8 Q. -- to prepare these graphs, right?

9 A. Absolutely.

10 Q. And what was the oscilloscope hooked up to?

11 A. To these devices.

12 Q. What part of the devices?

13 A. See, these devices, both of them are equipped at
14 the end of the day to create electrical signals.
15 There are transducers in the device that takes
16 the pressure and make measurements of time and
17 basically convert both of them to electric signal
18 and then you just give it an X/Y graph off the
19 oscilloscope.

20 Q. And I'm asking what -- did you hook up the
21 oscilloscope to the testers?

22 A. I didn't hook those up.

23 Q. Do you know what the oscilloscope was hooked up
24 to, what portion of the testing instruments was
25 the oscilloscope hooked up to?

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1 A. My assumption was it was connected to the right
2 places that both devices create such signal for
3 such determination.

4 Q. But you didn't hook it up?

5 A. I didn't hook it up.

6 Q. Did you ask what they were hooked up to?

7 A. As I said, my understanding and assumption is
8 that they are demonstrating the performance of
9 two devices side by side, so they must have
10 been -- that is my assumption -- hooked to the
11 right place in the device that creates the
12 pass/fail signal determination for this whole
13 test.

14 Q. And you don't know what part of the testing
15 device the oscilloscope was hooked up to; is that
16 correct?

17 A. The oscilloscope or the device?

18 Q. What component in the testing device, in the
19 SysTech testing device -- let's get specific.

20 What component in the SysTech testing device
21 was hooked up to the oscilloscope?

22 A. See, the thing is these devices typically have a
23 transducer. One or several. And they basically
24 transduce or alter pressure to electric signal;
25 so whatever pressure is trying to measure, that's

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1 the job of the transducer.

2 Q. Do you know what the transducer was hooked up to?

3 A. Again my assumption at the time that I was
4 looking at this test is connected to the
5 transducer that is meant to make all these
6 determinations.

7 Q. And how many transducers does the SysTech system
8 have?

9 A. Again --

10 Q. Do you know?

11 A. -- I don't need to know that.

12 Q. You relied on the Hickok personnel to hook up the
13 oscilloscope to generate these graphs; is that
14 right?

15 A. That is the reason I have put the first paragraph
16 on Page 2.

17 This report maybe -- not that. I'm sorry.

18 Based on the above information that I assume
19 to be accurate -- that's on Page 3. If you read
20 my first paragraph on Page 3: "Based on the
21 above information, which I assume is accurate and
22 truth for the purposes of this report" ... I
23 have provided that.

24 Q. So you didn't independently determine what the
25 oscilloscope, what portion of the testing devices

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1 the oscilloscope was hooked up to; is that
2 correct?

3 A. As I said --

4 Q. Is that correct? You have not independently
5 determined what it was?

6 A. I did not set up the test take and I am relying
7 on Page 3 of my report that whatever information
8 I am given is accurate and true.

9 Q. Well, you're relying on the Hickok personnel to
10 provide you with this information; is that
11 correct?

12 A. As I said, I have gathered --

13 MR. KEHOE: Objection. That
14 wasn't the -- if you're asking is he
15 relying on the Hickok personnel to do the
16 oscilloscope testing correctly, I think
17 that's what he's saying, Phil. I think the
18 question you asked was a little bit
19 different.

20 Q. Well, that's my question.

21 Did you rely on the Hickok personnel's
22 determination of what, of how the oscilloscope
23 should be hooked up?

24 A. I mean hooking up an oscilloscope to a device is
25 basically a rudimentary trivial matter so, again,

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1 based on Page 3, I'm assuming that whatever
2 information I was given is true and accurate.

3 Q. And I'm asking you, you did not independently
4 determine what portion of the Hickok testing
5 device the oscilloscope was hooked up to? You
6 did not independently do that. Is that a correct
7 statement?

8 A. I am not -- as I said, I'm not supposed to do
9 that.

10 Q. I'm not asking you what you're supposed to do.
11 I'm asking what you did and what you didn't do.
12 Now, did you independently determine --

13 A. No. The answer is no.

14 Q. So --

15 A. The answer is no.

16 Q. And the record is a little bit jumbled now so
17 just bear with me.

18 You did not independently determine what
19 component of the Hickok testing device the
20 oscilloscope was hooked up to to generate these
21 curves; is that correct?

22 A. I did not hook up the oscilloscope to the device
23 at all.

24 Q. And you did not independently determine what
25 component was hooked up to the oscilloscope; is

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1 that right?

2 A. I think my first answer is more inclusive.

3 Q. No. That doesn't answer my question.

4 I asked a specific question and it gives a
5 yes or no answer.

6 Did you independently determine --

7 A. No. I gave that answer.

8 Q. See, you're -- I want the record to be clear.

9 I want a question and then an answer
10 following the question so we both know what
11 you're answering. Okay?

12 You did not independently determine what
13 component of the Hickok cap tester was hooked up
14 to the oscilloscope; is that correct?

15 A. I think I gave the answer as no.

16 Q. So that's a correct statement. You did not
17 independently do that?

18 A. I did not independently do that.

19 Q. Thank you. And is the same true for the testing
20 of the tank tester?

21 A. That's right.

22 Q. And going back to the source of information,
23 Number 12 refers to waveform graphs produced by
24 oscilloscope testing and those are the graphs
25 that are shown in your report on Pages --

1 A. Yes.

2 Q. The fuel tank tester, right?

3 A. That's right.

4 Q. Did you go through an analysis comparing each
5 element of Claim 1 of the '089 patent with the
6 SysTech tank tester?

7 A. You mean the hardware of the SysTech tank tester?

8 Q. Correct.

9 A. No. I just looked at the operation of the
10 SysTech device.

11 Q. So what did you rely on in order to determine
12 that Claim 1 of the '089 patent was infringed by
13 the SysTech tank tester?

14 A. As I said, when I looked at the operation of the
15 two devices and looking at some of the documents
16 that I read claimed by SysTech how their device
17 gathers the data, how it reduces it and how it
18 works it out, I came up with that determination
19 that virtually the two devices are doing the same
20 thing.

21 Q. Did you determine that it had each element of the
22 apparatus claim of Claim 1?

23 A. They should have that. Otherwise they cannot
24 create those data points. They should have means
25 for connecting to external sources like in A;

1 understanding of how you construe a means plus
2 function claim term in a patent infringement
3 analysis?

4 A. As I said, if they substantially create the same
5 function, then the two means are substantially
6 the same.

7 Q. Now, your report does not really analyze Claim 1
8 of the '089 patent; is that correct?

9 A. Does not analyze Claim 1? No. Actually I'm just
10 comparing the two devices mostly in this report.

11 Q. But you're comparing methods. In the guts of
12 your report, you're talking about methods,
13 correct?

14 A. The method of basically reducing the data that
15 both devices kind of monitor.

16 Q. Your report doesn't make any reference to there
17 being the various elements of Claim 1?

18 A. No.

19 Q. In your report spanning Pages 3 and 4 there's a
20 description of a first and second step. Is this
21 for the gas cap tester?

22 A. Actually it could be more or less for both
23 because I have written on the III, on Page 3,
24 "Principal operation of Hickok's invention, '712
25 and '089," so it's basically in a general term

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1 Q. Very good. Thank you. You're talking about on
2 Page 6 the second graph should be labeled Figure
3 6?

4 A. That's right.

5 Q. Okay. Now, these, these two curves again were
6 generated by an oscilloscope hooked up to some
7 transducer in the two testing devices; is that
8 correct?

9 A. That's true.

10 Q. And do you know what the testing devices were
11 hooked up to?

12 A. The first one was a Hickok tank tester. The
13 second one a SysTech tank tester.

14 Q. But do you know what they were testing?

15 A. You mean in terms of the --

16 Q. Was there actually a gas tank?

17 A. Again, I don't recollect. It was long time ago.
18 I was just concentrating on the oscilloscope and
19 the behavior of the two devices so I did not pay
20 close attention to the test setup.

21 Q. So you don't -- I mean there was something
22 leaking. That's all you know?

23 A. That's right.

24 Q. Some reservoir that was leaking?

25 A. That's right.